

NEVADA DEPARTMENT OF  
CONSERVATION & NATURAL RESOURCES

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

**COMMISSION PETITION NO. 94017**

**LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-113-94**

**DOCUMENTS INCLUDED IN THIS FILE:**

**YES SECRETARY OF STATE FILING FORM**

**YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B**

**REGULATORY PETITIONS**

**ORIGINAL DRAFTED BY COMMISSION**

**ADOPTED BY COMMISSION**

**YES AS FILED AND CODIFIED BY LCB**

**Secretary of State  
Filing Data**

**For Filing Administrative  
Regulations**

**For Emergency  
Regulations Only**

**Effective Date** \_\_\_\_\_

**Expiration Date** \_\_\_\_\_

\_\_\_\_\_  
Governor's Signature

**Nevada State Environmental Commission**

Classification [ ] Proposed [ ] Adopted By Agency [XX] Temporary [ ] Emergency [ ]

**Brief description of action:** Petition 94017 (LCB R-113-94) permanently amends the Nevada Administrative Code 444.8458 by expanding the conditions under which a person who proposes to construct or operate a new or expanding facility for the management of hazardous waste must seek a certificate of designation from the administrator of the Division of Environmental Protection.

**Authority citation other than 233B:** NRS 449.485, 459.490 and 459.500 and 459.520

**Notice date:** July 12, 1994; July 20, 1994 and July 28, 1994.

**Hearing date:** August 11, 1994

**Date of Adoption of Agency:** August 11, 1994

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
PETITION 94017  
LCB R-113-94**

The following statement is submitted for adopted permanent amendments to Nevada Administrative Code Chapter 444 by the State Environmental Commission (SEC).

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Petition 94016 was noticed three (3) times: July 12, July 20 and July 28, 1994) and four times in the Las Vegas Review Journal and Reno Gazette-Journal newspapers. Comments and hearing minutes may be secured from the Office of the State Environmental Commission located in Carson City, Nevada at 333 W. Nye Lane, Room 128. No comments were received from the general public regarding this petition.

**2. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1. Comments and hearing minutes may be secured from the Office of the State Environmental Commission located in Carson City, Nevada at 333 W. Nye Lane, Room 128. No comments were received from the affected businesses.

**3. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulations were adopted at the SEC hearing on August 11, 1994 with no further comment.

**4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects: and**
- (b) Both immediate and long-term effects.**

- a. There are no adverse or beneficial economic effects on the public or regulated sources.
- b. There are no immediate or long-term economic effects on regulated sources. There are no immediate or long-term economic effects on the public.

**5. The estimated cost to the agency for enforcement of the proposed regulation.**

There is no additional cost to the agency for enforcement of the proposed regulation.

**6. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.**

There are no other state or government agency regulations which the proposed amendments duplicate.

# **CODIFIED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION**

**LCB File No. R-113-94**

**EXPLANATION**--Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

**AUTHORITY:** NRS 459.485, 459.490, 459.500 and 459.520

**Section 1.** NAC 444.8458 is hereby amended to read as follows:

444.8458 1. A person who proposes to construct or operate a new or expanding facility for the management of hazardous waste **[for which a permit is required]** must obtain a certificate of designation from the administrator before the submission of an application for **[the] a permit** */to construct or operate that facility/* or class 3 modification *required pursuant to 40 C.F.R. Part 124, Subparts A & B, Part 270, Subparts A to F, inclusive.*

2. An application for a certificate of designation must be accompanied by sufficient information to determine the need for the facility and by information concerning:

(a) The effect of the proposed facility on the public health, safety and welfare in the geographic area and any municipality near its proposed location, including without limitation:

- (1) The risk and effect of an accident in the transportation of hazardous waste to the facility;
- (2) The identification, risk and effect of any spill, discharge, fire, failure of equipment or other emergency that could occur at the facility;
- (3) The identification, risk and effect of any exposure to persons of hazardous waste, or products of the degradation of hazardous waste, that could occur during the operation or after the closure of the facility;
- (4) The consistency of the facility with local and regional plans and regulations for the use of land;
- (5) The protection of the public from adverse effects, including the economic and environmental effects from the construction and operation, and care after closure, of the facility;
- (6) The risk and effect of the facility concerning public and private sources of drinking water; and
- (7) The risk and effect of the facility concerning scenic, historic and recreational areas, and wetlands, flood plains, wildlife areas and other areas that are environmentally sensitive;

Petition 94017 was adopted as a permanent regulation by the Nevada State Environmental Commission on August 11, 1994 and it became effective upon filing with the Secretary of State on September 15, 1994 by the Legislative Counsel Bureau (LCB). This is LCB file R-113-94. Codified 11/21/94.

- (b) The density of population in the proximity of the proposed location for the facility;
  - (c) The public benefits of the proposed facility, including:
    - (1) The need in the state for the additional capacity for the management of hazardous waste;
    - (2) The energy and resources recoverable by the proposed facility; and
    - (3) The reduction in methods for the management of hazardous waste, which are less suitable for the environment, that would be made possible by the proposed facility;
  - (d) Whether any other available site or method for the management of hazardous waste would be less detrimental to the public health or safety or to the quality of the environment;
  - (e) The applicant's qualifications and experience in the management of hazardous waste;
  - (f) Whether the proposed facility complies with the provisions of NAC 444.8456; and
  - (g) The characteristics, sources and quantity of hazardous waste to be managed.
3. The administrator shall not issue a certificate of designation unless he determines, based upon the application, that:
- (a) The probable beneficial environmental effect of the facility to the state outweighs the probable adverse environmental effect; and
  - (b) There is a need for the facility to serve industry in the state. The administrator shall set forth in writing the basis of his determination of need for the facility.
4. The provisions of this section do not apply to a facility:
- (a) For community recycling;
  - (b) For community storage;
  - (c) For the storage of hazardous waste which is generated on the site of the facility; or
  - (d) Which qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G.

### **END OF PETITION 94017 (LCB R-113-94)**